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NAPA POLICE DEPARTMENT

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERT JONES,	)	Case No. C07-3054 JCS
)	
Plaintiff,	)	DEFENDANT CITY OF NAPA'S NOTICE
	)	OF MOTION AND MOTION TO DISMISS
vs.	)	COMPLAINT PURSUANT TO FRCP RULE
	)	12(b)(6) AND MOTION TO STRIKE
NAPA POLICE DEPARTMENT; COUNTY OF	)	PURSUANT TO RULE 12 (f)(2)
NAPA; CITY OF NAPA; MICHELLE JONES;)	
THOMAS TOLER, dba Toler Bail Bonds; JOSE	)	DATE: September 12, 2008
ROSSI; and DOES 1-100, Individually and as	)	TIME: 9:00 a.m.
employees or Agents of THE CITY or County OF	)	CRTRM: 2, 17th Floor
NAPA,)	
	)	The Honorable Jeffrey S. White
Defendants.)	

YOU ARE HEREBY NOTIFIED that on September 12, 2008 at 9:00 a.m., or as soon thereafter as the matter may be heard, in Courtroom 2, 17th Floor, of the above-referenced court located at 450 Golden Gate Avenue, San Francisco, California, Defendant City of Napa and its wrongly sued police department, the Napa Police Department, (jointly "City") will, and hereby does, move to dismiss Plaintiff's complaint pursuant to FRCP Rule 12(b)(6) on the grounds that Plaintiff's complaint, and each cause of action therein, fails to state a cause of action on which relief can be granted, as follows:

- Plaintiff's First Cause of Action under 42 U.S.C. Section 1983 is barred by his vandalism conviction, and the Supreme Court's *Heck v. Humphrey* doctrine which directs dismissal of civil rights cases which seek to undermine criminal convictions;
- Plaintiff's Second Cause of Action states no viable Section 1983 claim for an unreasonable search;

